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PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 4910.00011	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO at 571-273-8300 on the date listed below. on ___January 9, 2006___ Signature___*Cheryl M. Fernandez*___ Typed or printed name ___Cheryl M. Fernandez___	Application Number 09/696,051	Filed October 25, 2000
	First Named Inventor Kenneth R. Owens, et al.	
	Art Unit 2661	Examiner Bob A. Phunkulh

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
        Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
   See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
   (Form PTO/SB/96)

☐ attorney or agent of record.
   Registration number _____

☑ attorney or agent acting under 37 CFR 1.34.
   Registration number if acting under 37 CFR 1.34 ___52,611___

___*Cheryl M. Fernandez*___
                        Signature

Cheryl M. Fernandez
                        Typed or printed name

630-798-3019
                        Telephone number

January 9, 2006
                        Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below".

☑ "Total of __1__ forms are submitted.

Attorney Docket No. 4910.00011

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Owens et al.	Examiner: Bob A. Phunkulh Group Art Unit: 2661
Serial No.: 09/696,051	**CERTIFICATE OF FACSIMILE TRANSMISSION** I hereby certify that this correspondence and attached papers are being facsimile transmitted at 571-273-8300 on January 9, 2006.
Filed: October 25, 2000	
Title: PROTECTION/RESTORATION OF MPLS NETWORKS	By:_____ Cheryl M. Fernandez
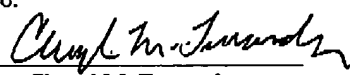
Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW REASONS

Dear Sir:

Responsive to Final Office Action mailed on November 8, 2005, the Applicants respectfully request a Pre-Appeal Brief Request for Review for the following reasons. The Applicants respectfully submits that this Request is timely filed under 35 U.S.C. § 21(b) because January 8, 2006, two months from the mailing date of the Final Office Action, fell on a Sunday and this Request is being filed on the next succeeding business day.

Claims 1-20 are pending in the present application.

Claims 1,3-5,7-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,721,269 of Cao et al. ("Cao").

Claim 6 is rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,532,088, of Dantu et al. ("Dantu").

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Claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cao in view of U.S.

Patent No. 5,241,534 of Omuro et al. ("Omuro").

Claim 1 is rejected under 35 U.S.C. § 102(e) as being anticipated by Cao. Specifically, the

Examiner states that:

> Regarding claim 1, Cao discloses an multi-protocol label switching system (MPLS) having a working path over which data is carried from a source to a destination and further having a protection path over which data from the source to the destination can be carried, a method of initiating an MPLS protection path switch over from the working path to the protection path comprising the steps of:
> -detecting a failure on the working path at a first switching node (a router along the path that first detects the failure) of the working path (routers along the path monitor the path and report the failure to the source node col. 3 lines 39-46, 48-51);
> -transmitting a failure notification message from only a first switching node to at least a second, switching node of the working path (if a failure is detected, a router that first detects the failure propagates the physical level maintenance to the source and sink routers, col. 3 lines 48-51);
> -routing data from the working path to the protection path upon the receipt of the failure notification message at least one of: the second switching node an a third switching node of the working path, wherein the at least one of the second switching node and the third switching node is at an origin of both the working path and the protection path (in order to accommodate a failure in the newly selected path, the sink and source nodes may establish another path back to the source router to maintain the desired redundancy and the secondary (and ternary, etc.) path(s) may also be monitored for failure so that they may be replaced in the event of their failure, col. 2 lines 25-45).

The above reference is from the Final Office Action mailed on November 8, 2005, pp. 2-

3. Underlined emphasis is added by the Applicants.

The Applicants respectfully submit that the Examiner has failed to point out in Cao the limitation

in Claim 1 of routing data, by a switching node of the working path, from the working path to the

protection path upon receipt of a failure notification message at the switching node, wherein the switching

node is at the origin of both the working and protection paths. Cao discloses in its Summary, "In

response to the physical layer failure indication, the failure is propagated and the exit router selects an

alternative, previously established, path for immediate use." (Cao, col. 2, lines 64-67) For further

arguments, please see the Applicants' 9-2-05 Amendment, p. 8 through the top of p. 9.

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In addition, the Applicants respectfully note that the Examiner's new arguments regarding Cao in

the 11-8-05 Final Office Action, underlined above, include a factual error. Cao discloses that "the sink

and source nodes may establish another path back to the source router to maintain the desired

redundancy". (Cao, col. 2, lines 43-45). Furthermore, Cao discloses that "the secondary (and ternary,

etc.) path(s) may be monitored for failure so that they may be replaced in the event of their failure".

(Cao, col. 2, lines 45-47) This path which may be established by the sink and source nodes is a secondary

path for maintaining the desired redundancy. It is not an operational path.

In contrast, Claim 1 is limited to:

> 1. In a multi-protocol label switching system (MPLS) having a
> working path over which data is carried from a source to a destination
> and further having a protection path over which data from the source to
> the destination can be carried, a method of initiating an MPLS protection
> path switch over from the working path to the protection path
> comprising:
> a. detecting a failure on the working path at a first switching
> node of said working path;
> b. transmitting a failure notification message from only a first
> switching node to at least a second, switching node of the working path;
> and
> c. routing data, by at least one of the second switching node and
> the third switching node of the working path, from the working path to
> the protection path upon the receipt of the failure notification message at
> the at least one of the second switching node and the third switching
> node, wherein the at least one of the second switching node and the third
> switching node is at an origin of both the working path and the protection
> path.

(Underlined emphasis is added by the Applicants.) Independent Claims 4, 6 and 12

include similar limitations. Claims 2, 3, 5, 7-11, 13-20 directly or indirectly depend on

independent Claims 1, 4, 6, and 12. Therefore, Cao does not render Claims 1,3-5,7-20

unpatentable under 35 U.S.C. § 102(e).

Claim 6 is rejected under 35 U.S.C. § 102(e) as being anticipated by Dantu. Specifically, the

Examiner states that:

> Regarding claim 6, Dantu discloses a multi-protocol label
> switching (MPLS) system comprised of a first MPLS protection switch

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having a data input port into which MPLS data is received from a data
source (the central network node, see figure 3);
     a second MPLS switching system coupled to said first MPLS
protection switch via a first data path carrying MPLS data, said first data
path comprising an MPLS working path (either network node 312 or
320, see figure 3);
     a third MPLS switching system coupled to said first MPLS
protection switch via a second data path capable of carrying MPLS data,
said second data path comprising an
MPLS protection path (either network node 312 or 320, see figure 3);
     an upstream reverse notification tree (RNT) data path extending
at least between said second MPLS switching system to said MPLS
protection switch, that upon a failure can carry data by which in response
to the failure a switchover from a working path to a protection path can
be initiated <u>(an overhead signaling message are generated and
transmitted back to the ingress node identifying the fault condition so
that the protection switching may occur quickly. The overhead signaling
messages are transmitted by the nodes detecting the error on a
communication link so that the ingress node may effectuate the change
on quick basis</u>, see col. 4 lines 8-21; and col. 9 lines 8-33 and figure 3).

The above reference is from the Final Office Action mailed on November 8, 2005, pp. 7-8. Underlined

emphasis is added by the Applicants.

The Applicants respectfully submit that that the Examiner has failed to point out in Dantu the

limitation in Claim 6 of an upstream reverse notification tree (RNT) data path that follows the MPLS

working path and extends at least between the second MPLS switching system to the first MPLS

protection switch, <u>that upon a failure can carry a failure notification</u>. Dantu discloses embodiments where

"every IP router and node <u>periodically and automatically generates a status signal</u> that is transmitted to all

other IP notes and routers". For further arguments, please see the Applicants' 9-2-05 Amendment, p. 10

through the top of p. 11.

In contrast, Claim 6 is limited to:

     6. A multi-protocol label switching (MPLS) system comprised
of:
     a first MPLS protection switch having a data input port into
which MPLS data is received from a data source;
     a second MPLS switching system coupled to the first MPLS
protection switch via a first data path carrying MPLS data, the first data
path comprising an MPLS working path;
     a third MPLS switching system coupled to the first MPLS
protection switch via a second data path capable of carrying MPLS data,
the second data path comprising an MPLS protection path;

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> an upstream reverse notification tree (RNT) data path that
> follows the MPLS working path and extends at least between the second
> MPLS switching system to the first MPLS protection switch, <u>that upon a
> failure can carry a failure notification</u> by which in response to the failure
> a switchover from the MPLS working path to the MPLS protection path,
> by a node at an origin of the MPLS working path and the MPLS
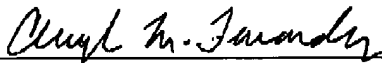> protection path, can be initiated.

(Underlined emphasis is added by the Applicants.) Therefore, the Applicants respectfully submit that

Dantu does not render Claim 6 unpatentable under 35 U.S.C. §102(e).

In view of the arguments set forth herein, it is respectfully submitted that the applicable rejections

have been overcome. Accordingly, it is respectfully submitted that Claims 1-20 should be found in

condition for allowance.

If there are any additional charges, please charge them to our Deposit Account Number 500-654.

Respectfully submitted,

Dated: January 9, 2006   By: _Cheryl M. Fernandez_

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